

PLEASE TAKE NOTICE that the Articles of Incorporation for the Greater Berrien Transportation Authority have been adopted by the Berrien County Board of Commissioners pursuant to the provisions of Act 196 of the Public Acts of Michigan of 1986, as amended (MCL 124.451 et seq.). In accordance with Section 5(2) of Act 196 of 1986 (MCL 124.455), the adopted Articles of Incorporation are hereby published below:

ARTICLES OF INCORPORATION OF THE GREATER BERRIEN TRANSPORTATION AUTHORITY

ARTICLE 1

INTRODUCTION

1. The Berrien County Board of Commissioners adopts these Articles of Incorporation, pursuant to the provisions of Act 196 of Public Acts of 1986, to create and establish a public transportation authority and define its powers, duties, rights, and responsibilities; the composition and selection process for its Board of Directors; and establish the effective date for these Articles of Incorporation.
2. The corporate name of the authority created by these Articles of Incorporation is the Greater Berrien Transportation Authority (GBTA).

ARTICLE 2

DEFINITIONS

1. ACT: “The Act” shall mean Act 196 of 1986; MCL 124.451 et seq., the Public Transportation Authority Act.
2. BOARD: “Board” means the governing body of the GBTA.
3. POLITICAL SUBDIVISION: “Political Subdivision” means Berrien County, or any city, village, or township within Berrien County.
4. PUBLIC AUTHORITY: “Public Authority” means the Greater Berrien Transportation Authority (GBTA) created under the Act and these Articles of Incorporation to service the geographical area, defined in Section 3.02 below and further established in Attachment A, District Map.
5. PUBLIC TRANSPORTATION PURPOSE: “Public Transportation” means the movement of people and goods by publicly or privately owned water vehicle, bus, railroad car, rapid transit vehicle, taxicab, or other conveyance which provides general or special service to the public, but not including charter or sightseeing service, or transportation which is exclusively used for school purposes. Public transportation, public transportation services, or public transportation purposes are further defined and declared to be transportation purposes within meaning of section 9 of article IX of the Michigan Constitution of 1963.
6. TAXABLE PROPERTY: “Taxable Property” means the property taxable under the general property tax act(s) of the State of Michigan, except for property expressly exempted by the act(s) of the state legislature.

ARTICLE 3

AUTHORITY AND FORMATION

SECTION 3.01: CREATION; INCORPORATOR; AND NAME OF THE PUBLIC AUTHORITY

1. The Berrien County Board of Commissioners, as the incorporating political subdivision, hereby creates a public transportation authority, pursuant to the Act, named the Greater Berrien Transportation Authority (GBTA).
2. The GBTA shall be a corporate body with power to sue and be sued in any court of this state, and shall be an agency and instrumentality of the state. The GBTA is a public benefit agency and instrumentality of the state with all the powers of a public corporation, to accomplish its purposes and to control, operate, administer, and exercise the franchise of the public transportation system and public transportation facilities, if any. The GBTA shall possess all the powers necessary to carry out the purposes of its formation and all things incident to carrying out the purposes of its formation, shall be administered in the manner determined by the Board and as provided in these Articles of Incorporation, and shall be known and exercise its powers under the title of “the Greater Berrien Transportation Authority” (GBTA). Pursuant to the Act, GBTA, its income and property, is exempt from all taxation by the State of Michigan.

SECTION 3.02: JURISDICTIONAL BOUNDARIES

1. The jurisdictional boundary of the GBTA for purposes of the Act, is the geographical area known as the County of Berrien, Michigan, and includes the territory within all political subdivisions within Berrien County, subject to withdrawal and removal of all or a part of a political subdivision, as described in the Act. To the extent permitted by the Act, a political subdivision may request that only a portion of its own geographical boundary be included or removed from membership in the GBTA, provided that portion is contiguous with existing electoral precincts.
2. Further the geographical area in which the Public Authority shall exercise its powers as provided by the Act and these Articles is hereby established as shown as being served and unserved by public transportation services on Attachment A, the District Map, as may be amended from time to time, including all notations, references and other information shown. Amendment to the District Map shall be treated as an amendment of these Articles and shall be approved and noticed in the manner provided by Article 10 below, and the Act.
3. Notwithstanding subsections 1 and 2 above, the GBTA may provide public transportation service within and outside its jurisdictional boundaries as provided in 1951 PA 51, MCL 247.651 to 247.674, subject to the consent requirement set forth in Section 3.08(1)(j) of these Articles and Section 14(b) of the Act.

SECTION 3.03: PURPOSE

1. The purpose of these Articles is to create a Public Transportation Authority under Act 196 for the purpose of providing Public Transportation Services within the meaning of section 9 of article IX of the Michigan Constitution of 1963.

SECTION 3.04: ADOPTION ENDORSEMENT AND PUBLICATION

1. The Berrien County Clerk shall endorse these Articles of Incorporation after their adoption by the Berrien County Board of Commissioners and the Berrien County Clerk shall publish them once in a newspaper of general circulation throughout the County on a date at least 10 days, but not more than 30 days, after their adoption.

SECTION 3.05: FILING OF ARTICLES

1. The Berrien County Clerk is designated as the person charged with the responsibility of causing one printed copy of these Articles of Incorporation to be filed with each of the following, as required by Section 5(2) of the Act: (a) the Michigan Secretary of State; (b) the Clerk of Berrien County, which filing shall be made in the records of that office; and (c) the Director of the Michigan Department of Transportation.
2. The Clerk shall cause the filings to be made within thirty (30) days after adoption, shall record the date of each filing, and shall furnish written confirmation of the filings to the Berrien County Board of Commissioners and, on request, to any political subdivision within the jurisdictional boundaries of the GBTA.

SECTION 3.06: EFFECTIVE DATE; VALIDITY PRESUMED

1. The GBTA shall become operative, and these Articles of Incorporation shall become effective, thirty (30) days after filing with the Berrien County Clerk’s Office, with the Michigan Secretary of State, and the Director of the Michigan Department of Transportation (MDOT), whichever is later.
2. The validity of the incorporation of the GBTA will be conclusively presumed unless questioned in a court of competent jurisdiction within sixty (60) days after the publication of the articles of incorporation.

SECTION 3.07: SEVERABILITY

1. The requirements and the various chapters, parts, sections, and clauses of these Articles of Incorporation are severable. If a court of competent jurisdiction determines that any article, part, sentence, paragraph, section, or clause is unconstitutional or invalid, the remaining chapters, parts, portions, and provisions of these Articles of Incorporation shall remain in full force and effect.

SECTION 3.08: POWERS

1. The GBTA shall possess, without limitation, every power granted to it by the Act, and necessary to carry out the purpose of its incorporation as provided in the Act, and to carry out the terms of any Transportation Agreements between the GBTA, its members, or any public or private entity providing services to the GBTA, including but not limited to, the following:
 - a. Investigate transportation requirements, needs, and programs and engage by contract consultants as may be necessary and cooperate with the federal government, state, political subdivisions, and other authorities or transportation agencies in those investigations.
 - b. Subject to Section 11 of the Act, to acquire, succeed to, and assume the assets, liabilities, contracts, and operations of the public transportation systems presently operated by (i) the County of Berrien, known as Berrien Bus; (ii) the Twin Cities Area Transportation Authority, an authority incorporated under 1963 PA 55, MCL 124.351 to 124.359 (“TCATA”); and (iii) the City of Niles, known as Niles Dial-A-Ride Transportation (“Niles DART”), in each case on the terms of one or more written transfer agreements approved by resolution of the governing body of each transferring entity and by the Board. No transfer shall take effect until each of the following has occurred:
 - i. As to TCATA, its board has authorized the transfer and any action required of TCATA’s constituent political subdivisions under 1963 PA 55 has been taken;
 - ii. TCATA has consented, as required by Section 14(b) of the Act, to the provision of public transportation service by the GBTA within TCATA’s boundaries, or TCATA has been dissolved;
 - iii. As to Niles DART, the Niles City Commission has authorized the transfer;
 - iv. The City of Niles has consented, as required by Section 14(b) of the Act, to the provision of public transportation service by the GBTA within the City of Niles’s boundaries, or Niles DART has been dissolved;
 - v. The Michigan Department of Transportation and, as to federally assisted property, the Federal Transit Administration have granted any approval, concurrence, or release required for the transfer of grant-assisted assets and the assignment of grant agreements; and
 - vi. As to real property, a deed or other memorandum of conveyance has been recorded in Berrien County, or the local assessing officer has been notified by registered mail, before December 31 of the year of acquisition, as required by MCL 211.7m.
 - c. To acquire and own assets, real and personal, as permitted by the Act.
 - d. To hire a management firm, either corporate or otherwise to operate the public transportation system, under the supervision of the GBTA.
 - e. To operate, acquire, or contract with a private carrier or other party to provide, vehicle operation and dispatch services, maintenance services of vehicles and equipment, supplies, vehicle storage facilities and office space.
 - f. To fix and collect charges, rents, rates or fees; to make and enter into contracts; to employ agencies or employees, to manage, maintain or operate buildings, works or improvements; to acquire, hold or dispose of property; to incur debts, liabilities, or obligations which do not constitute debts, liabilities or obligations of Berrien County.
 - g. Contract with any other transportation authority or political subdivision of the state or another state or any agency or instrumentality of the state or another state or another nation or private corporation or person for service contracts, joint use contracts, or contracts for the construction or operation of any part of the public transportation facilities.
 - h. To levy taxes as permitted by law.
 - i. No enumeration of powers in these Articles shall be construed as a limitation on the general powers of the GBTA.
 - j. To provide public transportation service and public transportation facilities within or outside the jurisdictional boundaries of the GBTA as provided in 1951 PA 51, MCL 247.651 to 247.674. However, the GBTA shall not provide public transportation service in an area within the boundaries of a member, or of a released or withdrawn member, of another authority formed under the Act or under any other act, without the agreement and consent of that other authority. This limitation does not apply to an entity withdrawing under Section 8(5) of the Act.
 - k. To acquire and hold, by purchase, lease, grant, gift, devise, land contract, installment purchase contract, bequest, condemnation, or other legal means, real and personal property, including franchises, easements, or rights of way on, under, or above any property within or outside the jurisdictional boundaries of the GBTA as provided in 1951 PA 51, and to pay for the same from, or pledge for the payment of the same, revenue of the GBTA. Subject to reasonable use, the GBTA may use space and areas over, under, and upon the public streets and highways to carry out its duties. Any exercise of the power of condemnation shall be authorized by resolution of the Board adopted by the affirmative vote of a majority of the members appointed and serving, and shall be conducted in accordance with the Uniform Condemnation Procedures Act, 1980 PA 87, MCL 213.51 to 213.75.
 - l. To request the appropriate local political subdivision to begin condemnation proceedings.
 - m. To sell, lease, or use any property acquired for the purposes of the Act but not needed for those purposes, and to lease advertising space and grant concessions for the sale of newspapers and other articles and for services on or in any portion of the property under the jurisdiction of the GBTA. Any sale or lease of real property, and any transfer of property acquired in whole or in part with state or federal financial assistance, is subject to the approval of the Board and to any approval required by the Michigan Department of Transportation or the Federal Transit Administration.
 - n. To grant to utilities, public or privately owned, the right to use the property or any part of the property of the public transportation facilities, and to grant to any other public authority formed under the Act the right to use any part of the public transportation facilities.

SECTION 3.09: NOTICE OF INCLUSION AND RIGHT TO WITHDRAW

1. For purposes of Section 8(5) of the Act, the GBTA shall be considered incorporated on the effective date established in Section 3.06 of these Articles.
2. Within ten (10) days after the filings required by Section 3.05 are complete, the Berrien County Clerk shall give written notice, addressed to the clerk of each city, village, and township included within the jurisdictional boundaries of the GBTA, that the political subdivision, or the identified portion of it, is included in the GBTA. Notice shall be given by personal delivery or by certified mail, return receipt requested, and the Clerk shall retain proof of delivery for each political subdivision noticed.
3. The notice shall state each of the following:
 - (a) that the political subdivision, or the identified portion of it, is included in the GBTA, and shall identify any portion by reference to the precinct lines bounding it;
 - (b) that under Sections 8(5) and 8(7) of the Act the political subdivision may withdraw from the GBTA, without meeting the conditions of Section 8(1) or 8(2) of the Act, at any time before the later of the thirtieth day after the date the GBTA is incorporated or the thirtieth day after the political subdivision receives the notice;
 - (c) that a city, village, or township may instead elect to withdraw only a portion of itself, bounded by precinct lines drawn for election purposes;
 - (d) that a political subdivision may also withdraw, without meeting the conditions of Section 8(1) or 8(2) of the Act, in any year in which a tax authorized under the Act expires, by vote of its legislative body held in January of that year; and
 - (e) the address to which a withdrawal resolution must be delivered and the date on which the withdrawal period closes.
4. Withdrawal under this section is accomplished by resolution adopted by a majority of the members elected to and serving on the legislative body of the political subdivision, a certified copy of which is delivered to the Berrien County Clerk and to the recording officer of the GBTA before the close of the withdrawal period.
5. Within thirty (30) days after the withdrawal period closes, the recording officer of the GBTA shall prepare an amendment to these Articles conforming Section 3.02 and Attachment A to the withdrawals received. The amendment shall be filed and published in the same manner as the original Articles. Failure to prepare the amendment does not affect the validity of a withdrawal.
6. Nothing in this section limits the continuing obligations described in Section 10.02(4)(a) of these Articles.

ARTICLE 4

BOARD OF DIRECTORS

SECTION 4.01: MEMBERSHIP

1. The Board shall consist of eleven (11) regular members, each to be appointed by the Berrien County Board of Commissioners. Regular and Alternate members must be residents of Berrien County.
2. Members shall be selected in the following fashion:
 - a. Two (2) members representing the existing service area of Berrien Bus as referenced in Attachment A.
 - b. Two (2) members nominated by the City of Benton Harbor and representing the existing service area of TCATA as referenced in Attachment A.
 - c. Two (2) members nominated by the City of Niles and representing the existing service area of Niles DART as referenced in Attachment A.
 - d. One (1) member representing the public and/or private healthcare systems of Berrien County.
 - e. One (1) member representing the primary, secondary and/or higher education system of Berrien County.
 - f. One (1) member representing the senior citizen population of Berrien County.
 - g. One (1) member representing the veteran population of Berrien County.
 - h. One (1) member representing disabled individuals in Berrien County.
3. Members of the Berrien County Board of Commissioners shall not be eligible to serve on the Board.
4. The County Commission may also appoint one (1) person to serve as alternate for each regularly appointed member. An alternate must also meet the qualifications for Board membership as indicated above. An alternate may serve as a voting member any time a regular member is or may be absent, or a quorum would not otherwise be present at a meeting. Alternates may attend all meetings, and engage in discussion and debate, but may only vote when acting in the absence of a regular member.
5. Removal; Vacancies.
 - a. A member or alternate may be removed before the expiration of the member’s term by resolution of the Berrien County Board of Commissioners only for cause. For purposes of this subsection, “cause” means any of the following:
 - i. absence from three (3) consecutive regular meetings of the Board, or from more than one-third of the regular meetings held in any twelve (12) month period, without an excuse approved by the Board;
 - ii. conviction of a felony, or of a misdemeanor involving dishonesty, fraud, or breach of fiduciary duty;
 - iii. a substantiated violation of the Act, these Articles, the By-Laws, 1968 PA 317, MCL 15.321 to 15.330, 1968 PA 318, MCL 15.301 to 15.310, the Open Meetings Act, or the Freedom of Information Act;
 - iv. loss of the residency qualification, or of the representational qualification for the seat held under Section 4.01(2); or
 - v. conduct that materially impairs the operations of the GBTA or that jeopardizes its eligibility for state or federal financial assistance.
 - b. A member shall not be removed for any vote cast, position taken, or statement made in the good faith exercise of the member’s duties to the GBTA.
 - c. Before a vote on removal, the member shall be given written notice of the grounds not less than fourteen (14) days in advance and an opportunity to be heard, personally or through counsel, at a meeting of the Berrien County Board of Commissioners. The hearing shall be held in open session unless the member requests a closed session as permitted by section 8(a) of the Open Meetings Act. Removal requires the affirmative vote of a majority of the members elected to and serving on the Berrien County Board of Commissioners.
 - d. If the seat is one filled from a nomination by the City of Benton Harbor or the City of Niles under Section 4.01(2)(b) or (c), the Berrien County Clerk shall give that city written notice of the proposed removal at the same time notice is given to the member, and the city may submit a written statement or appear at the hearing.
 - e. A member who ceases to reside in Berrien County vacates the seat automatically, without action by the Berrien County Board of Commissioners.
 - f. A vacancy arising from removal, resignation, death, disqualification, or expiration of a term without reappointment shall be filled in the same manner as the original appointment, for the remainder of the unexpired term, within sixty (60) days after the vacancy arises.
6. The Board shall designate one of its members as Chairperson, one as Vice-Chairperson, one as Secretary and one of its members as Treasurer (the offices of Secretary and Treasurer may be combined), each to be designated for such terms of office and have such duties and responsibilities as may be established in the By-Laws of the GBTA.
7. The Board shall adopt and may amend By-Laws as it deems necessary. However, such By-Laws shall not be effective until approved by the County Board of Commissioners.
8. The books and records of the GBTA shall be maintained in accordance with generally accepted accounting practices and applicable state and federal regulations and shall be open to inspection and subject to audit by Berrien County at all reasonable times.
9. GBTA shall submit an annual report to Berrien County, and all members, which shall include a report of the financial affairs of the GBTA and a report of the public’s use of the transportation system, and such additional reports as the County Board of Commissioners may from time-to-time request.
10. The Board of Directors shall adopt an annual budget that shall be a plan for all revenues and expenditures. Budgeted expenditures shall not exceed anticipated revenues.

SECTION 4.02: TERM

1. Except as provided in subsection 2 for initial appointments, the term of office of a Board member and of an alternate shall be four (4) years, commencing on October 1 and expiring on September 30 four (4) years later. For the initial appointments, terms shall expire as follows: one (1) of the members appointed under Section 4.01(2)(a), one (1) appointed under Section 4.01(2)(b), and one (1) appointed under Section 4.01(2)(c), on